

Screening process with Croatia and Turkey

Explanatory Session, 13 June 2006



***Film Heritage Recommendation
of 16 November 2006***

European Commission, DG INFSO AND MEDIA

Audiovisual and Media Policy Unit

Overview



1. Objectives / legal basis

- ◆ Promotion of systematic conservation of European film heritage
- ◆ Legal basis → Article 157 TEC;
→ Article 151 (4) TEC (cross-cutting competence)

2. Tools / Film heritage Recommendation

- ◆ Legislative Process
- ◆ Recommendations to Member State
- ◆ Intentions of Commission

3. Challenges / follow-up

- ◆ Model Framework contract between rightholders and archives on voluntary deposit
- ◆ Standardization of film cataloguing
- ◆ Member States' application reports (11/2007)

Why protecting film heritage?



Characteristics of cinema films:

- High **costs** of production
 - High **cultural impact**
 - play important role in shaping (European) identities
 - witnesses of Europe's cultural diversity and identities
 - source of historical information
 - **Fragile** medium
 - conservation requires **positive action**
- Protection of film heritage is an **urgent task of public interest**
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General objectives of EU cinema policy



- Promotion of development, production, distribution, circulation and **conservation** of European films **complementary** to primary measures at Member State-level by:
- Providing a **common legal framework** in view of increasing:
 - legal certainty
 - **competitiveness** of European cinema industry

Specific objectives of film heritage protection



- **systematic conservation** of MS' film heritages for the good of future generations

 - **strengthening film industry** by setting foundations for exploitation of “sleeping” catalogues by right holders
 - **Economic impact** of film heritage (non-recent films):
 - 1/3 of DVD and video sales market
 - 11% of audiovisual industry (TV; VOD; Classic film collections)
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Legal basis



➤ Article 157 TEC (Industry)

- ◆ **Aim:** ensure that conditions necessary for competitiveness exist
- ◆ **Ex:** MEDIA programmes, Recommendation on film heritage; film-online exercise
- ◆ **Co-decision**, qualified majority, ECOSOC;

➤ Article 151(4) TEC (Culture)

Horizontal cross-cutting dimension

→ “The Community shall take cultural aspects into account in its action under other provisions to promote the diversity of its cultures.”

- Recommendation is “**softest**” available tool to reach given objectives

Tools at international level



The **European Convention** for protection of Audiovisual Heritage

- open for signature since 8.11.2001 (ratified by LT, Monaco)
- provides for **legal** obligation to deposit all moving image material forming part of **audiovisual** heritage and having been produced or co-produced in the territory of the Party concerned

Tools at EU level



1. Council Resolutions (24/11/2003 and 26/06/2000) invited MS:

- ◆ to put in place an efficient system of **deposit** and **preservation** of the cinematographic works forming part of **their audiovisual heritage** in national archives, film institutes or similar institutions;
- ◆ to cooperate in **restoration** and conservation of cinema heritage
- ◆ to **exchange good practices** and consider use for non-commercial purposes.

2. EP Resolution of 2 July 2002 on Cinema I Communication:

- ◆ underlined the importance of safeguarding cinematographic heritage.

Tools at EU level



3. Council and EP Recommendation

“Recommendation of the EP and the Council on film heritage and the competitiveness of related industrial activities”

➤ **Adopted** on 16 November 2005

➤ **Published in**

- ◆ OJEU, 09.12.2005, L 323/57
- ◆ http://ec.europa.eu/comm/avpolicy/reg/cinema/index_en.htm

➤ Community act without binding force (Art. 249 TEC)

- ◆ Extensive legislative process
- ◆ “soft law” is part of “**acquis**” but no enforcement by ECJ

Recommendations to Member States (I) Collection



European Council and EP recommend:

➤ in general

that MS introduce an obligation to systematically collect, catalogue, preserve, restore cinematographic works and make them accessible for non-commercial purposes

➤ In particular

that MS undertake systematic **collection (para 7)**

- ◆ through **mandatory** legal or contractual **deposit**
- ◆ no later than **2 years** after release
- ◆ at least 1 high quality copy of cinematographic works
 - forming part of MS **audiovisual heritage** (Recital 18)
 - which have received **public support** (transitional period)

Recommendations to Member States (II)



Recommends in particular that MS:

- Promote cataloguing and indexing of films in databases (para 8-11)
 - ◆ Interoperability (network of databases)
 - ◆ European standard
 - ◆ collections

- Adopt preservation measures (para 12)
 - ◆ Reproduction on new storage mediums
 - ◆ Preservation of equipment

- authorize reproduction of films for purpose of restoration (para 13)
 - ◆ On basis of agreement with rightholders
 - ◆ In compliance with copyright and related rights

Recommendations to Member States (III)



Recommends **in particular** that MS:

- Allow designated bodies to make works accessible for non-commercial purposes (para 15/16)
 - ◆ Educational, cultural, research
 - ◆ In compliance with copyright and related rights

- Promote professional training and media literacy in all fields related to film heritage (para 17-20)

Recommendations to Member States (IV)



Recommends in particular that MS:

- set up system of voluntary deposit for (para 21):
 - ◆ Ancillary material
 - ◆ Film heritage of other countries
 - ◆ moving images other than cinematographic works

- Designate and support designated bodies' **activities** (para 3, 5, 22)
 - ◆ Release archival material on **DVD** (multiple subtitling)
 - ◆ European **filmography**
 - ◆ Promote European network of **cinema schools and archives**
 - ◆ Establish / support **national film academies**

Commission's intentions



The Commission intends to

- support co-operation between film archives (para 2)
- promote European standardisation on film cataloguing with purpose of improving interoperability of databases (para 4);
- facilitate negotiation of a standard model contract between archives and right holders to facilitate access to deposited works (para 5);
- Implementation of Recommendation
 - ◆ Monitor
 - ◆ Assess and consider need for further action

Challenges I: Follow-up by Commission



➤ European standardisation of film catalogues

- ◆ Aim: Interoperability of databases
- ◆ Mandate to CEN

➤ standard model contract

- ◆ regulating conditions of **voluntary film deposit** and **access** to deposited works
- ◆ COM facilitates negotiations between rights holders and film archives

Challenges II: Follow-up by Member State



- **Implementation** of recommendations;

- Informing the Commission **every two years** of action taken in response to this Recommendation (para 23)
 - ◆ **Deadline:** November 2007
 - ◆ Commission will inform Member States and professionals in Cinema Expert Group (2008) on actions taken by MS and need for further action

Contact information



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